
UNFINISHED BUSINESS

Bill No: SB 34
Author: Hill (D), et al.
Amended: 9/1/15
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE: 8-2, 4/7/15

AYES: Beall, Allen, Galgiani, Leyva, McGuire, Mendoza, Roth, Wieckowski

NOES: Bates, Gaines

NO VOTE RECORDED: Cannella

SENATE JUDICIARY COMMITTEE: 4-2, 4/14/15

AYES: Jackson, Leno, Monning, Wieckowski

NOES: Vidak, Anderson

NO VOTE RECORDED: Hertzberg

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/4/15

AYES: Lara, Beall, Hill, Leyva, Mendoza

NOES: Bates, Nielsen

SENATE FLOOR: 25-12, 5/7/15

AYES: Allen, Beall, Block, Cannella, De León, Galgiani, Hall, Hancock,
Hernandez, Hertzberg, Hill, Hueso, Jackson, Lara, Leno, Leyva, McGuire,
Mendoza, Mitchell, Monning, Pan, Pavley, Roth, Wieckowski, Wolk

NOES: Anderson, Bates, Berryhill, Gaines, Huff, Moorlach, Morrell, Nguyen,
Nielsen, Runner, Stone, Vidak

NO VOTE RECORDED: Fuller, Liu

ASSEMBLY FLOOR: 71-5, 9/3/15 - See last page for vote

SUBJECT: Automated license plate recognition systems: use of data

SOURCE: Author

DIGEST: This bill establishes regulations on the privacy and usage of automatic license plate recognition (ALPR) data and expands the meaning of “personal information” to include information or data collected through the use or operation of an ALPR system.

Assembly Amendments impose privacy protection requirements on entities that use ALPR information, as defined; prohibit public agencies from selling or sharing ALPR information, except to another public agency, as specified; and require operators of ALPR systems to use that information only for authorized purposes.

ANALYSIS:

Existing law:

- 1) Places regulations on agencies, persons, or businesses that own, license, or maintain computerized data that includes personal information. These regulations include disclosing a breach of security.
- 2) Prohibits a transportation agency from selling or providing personally identifiable information of any person who subscribes to an electronic toll or electronic transit fare collection system or who uses a toll bridge, toll lane, or toll highway that employs an electronic toll collection system. Agencies covered by this regulation are the Department of Transportation, the Bay Area Toll Authority, any entity operating a toll bridge, toll lane, or toll highway within the state, any entity administering an electronic transit fare collection system and any transit operator participating in that system, or any entity under contract with the above-mentioned entities.
- 3) Requires that transportation agencies employing an electronic toll or transit fare collection system establish a privacy policy for the collection and use of personally identifiable information and provide users with a copy of the privacy policy. Transportation agencies include the Department of Transportation, the Bay Area Toll Authority, any entity operating a toll bridge, toll lane, or toll highway within the state, any entity administering an electronic transit fare collection system, and any transit operator participating in that system, or any entity under contract with the above-mentioned entities.
- 4) Establishes limits on the length of time that transportation agencies may keep personal information. All information may be kept only as long as necessary to perform account functions. All other information must be discarded within 4½ years after the conclusion of the billing cycle.

This bill:

- 1) Defines an ALPR system as a system of one or more mobile or fixed cameras combined with computer algorithms to read and convert images of registration plates and the characters they contain into computer-readable data.
- 2) Requires that data collected through the use or operation of an ALPR system be considered as personal information subject to existing law pertaining to agencies, persons, or businesses that conduct business in California, and that own or license computerized data including personal information.
- 3) Defines an ALPR end-user as a person that accesses or uses ALPR information and an ALPR operator as a person that operates an ALPR system, or that maintains ALPR information, with the exception of transportation agencies; persons already subject to state and federal code regarding protection of nonpublic personal information; and a person, other than a law enforcement agency, to whom information may be disclosed as a permissible use under federal code regarding prohibition on release and use of certain personal information from state motor vehicle records. A person may include any natural person, public agency, partnership, firm, association, corporation, limited liability company, or other legal entity.
- 4) Requires that ALPR operators ensure that ALPR information is protected with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality and integrity.
- 5) Requires that ALPR operators and end users implement and maintain reasonable security procedures and practices in order to protect ALPR information from unauthorized access, destruction, use, modification, or disclosure.
- 6) Requires that ALPR operators and end users implement and maintain a usage and privacy policy in order to ensure that the collection, access, and use of ALPR information is consistent with respect for individuals' privacy and civil liberties.
- 7) Requires ALPR operators that access or provide access to ALPR information to maintain a record of that access. The record must include the date and time of access, the license plate number which was queried, the person who accesses the information, and the purpose of accessing the information.

- 8) Allows an individual who has been harmed by a violation of this title to bring a civil action against a person who knowingly caused the violation. The court can award damages which are stipulated in this bill.
- 9) Requires a public agency that operates or intends to operate an ALPR system to provide an opportunity for public comment at a regularly scheduled public meeting of the governing body of the agency before it implements the program of ALPR use.

Comments

Purpose. The author states that this bill is necessary to institute reasonable usage and privacy standards for the operation of ALPR systems, which do not exist for the majority of local agencies that have approved the use of ALPR technology, according to the American Civil Liberties Union (ACLU). Additionally, this bill requires an opportunity for public input on the usage and standards of ALPR technologies, something the author contends few local agencies allow. The author states that the main focus of this bill is to put in place regulations for businesses and agencies which currently do not have any policies regarding the use of ALPR data, unlike transportation agencies which are already regulated by existing law.

ALPR background and history. ALPR systems automatically scan any license plate within range. Some ALPR systems can scan 2,000 plates in a minute. When used by law enforcement, each scanned license plate is checked against crime databases. If a “hit” occurs — for example, a stolen vehicle, AMBER alert, or an arrest warrant — the ALPR technology alerts the law enforcement officer. While some suggest this technology is useful for modern policing, others raise concerns over an invasion of peoples’ civil liberties. Whether or not a hit occurs, all license plate scans are sent to large regional databases that aggregate ALPR data from various law enforcement agencies. The ACLU reports that an estimated 1% of ALPR data results in a hit and the other 99% of data has no relation to criminal activity. Databases maintained for northern California law enforcement agencies, San Diego law enforcement agencies, and private companies (such as insurance companies, collections agencies, and private investigators) contain 100 million, 49 million, and more than 1 billion license plate scans, respectively. Some argue that this information has the potential to be involved in large-scale security breach issues.

The use of ALPR technology is growing. The ACLU estimates that nationally, 75% of law enforcement currently uses ALPRs, 85% plan to expand their use, and

within the next five years at least 25% of all police vehicles will be equipped with the technology.

Privacy concerns. The collection of a license plate number, location, and time stamp over multiple time points can identify not only a person's exact whereabouts but also their pattern of movement. Unlike other types of personal information that are covered by existing law, civilians are not always aware when their ALPR data is being collected. One does not even need to be driving to be subject to ALPR technology: A car parked on the side of the road can be scanned by an ALPR system.

This bill will put in place minimal privacy protections by requiring the establishment of privacy and usage protection policies for ALPR operators and end users. This bill does not prevent the authorized sharing of data, but if data is shared, it must be justified and recorded.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee:

- 1) The state's Data Breach Protection Law requires a public agency or California business that owns or licenses computerized data containing personal information to disclose a breach of the system's security or data to any California resident whose unencrypted personal information was acquired by an unauthorized person. If the costs to provide notifications exceed \$250,000, or if the breach affected more than 500,000 persons, the agency or business can use one of several alternative methods of notification, including posting a notice on the entity's website.
- 2) The California Highway Patrol (CHP) could incur unknown but likely minor costs to provide notifications in the event of a data breach. Because the department's ALPR system contains several million plates at any one time, it would likely use the less costly alternative means of notification. Other provisions of this bill are consistent with existing requirements placed on the CHP's use of ALPR.
- 3) Potentially significant, but non-reimbursable costs to comply with this bill's requirements for those local law enforcement agencies that elect to operate ALPR systems. Similar to the CHP, local agencies could also incur notification-related costs in the event of a data breach of their ALPR systems.

SUPPORT: (Verified 9/3/15)

Bay Area Civil Liberties Coalition
California Civil Liberties Council
Conference of California Bar Associations
Media Alliance
Small Business California

OPPOSITION: (Verified 9/3/15)

None received

ASSEMBLY FLOOR: 71-5, 9/3/15

AYES: Achadjian, Alejo, Travis Allen, Baker, Bigelow, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chau, Chávez, Chiu, Chu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Hadley, Harper, Roger Hernández, Holden, Irwin, Jones-Sawyer, Kim, Lackey, Levine, Linder, Lopez, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian, O'Donnell, Olsen, Perea, Quirk, Rendon, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Waldron, Weber, Wilk, Williams, Wood, Atkins

NOES: Grove, Jones, Mathis, Obernolte, Wagner

NO VOTE RECORDED: Beth Gaines, Gallagher, Melendez, Patterson

Prepared by: Randy Chinn / T. & H. / (916) 651-4121
9/3/15 18:02:01

**** **END** ****